

REMARKS

The Examiner is thanked for the thorough review and consideration of the present application. The non-final Office Action dated December 22, 2003 has been received and its contents carefully reviewed.

By this Response, Applicants have amended claims 4 and 13. No new matter has been added. Claims 1-27 are pending in the application. Reconsideration and withdrawal of the rejections in view of the above amendments and the following remarks are requested.

In the Office Action, claims 1, 2 and 6-18 are rejected under 35 U.S. C. § 103(a) as being unpatentable over U.S. Patent No. 5,760,854, issued to Ono et al. (hereafter "Ono") in view of U.S. Patent No. 6,146,796, issued to Kaneko et al. (hereafter "Kaneko") further in view of U.S. Patent No. 5,530,568, issued to Yamamoto et al. (hereafter "Yamamoto") further in view of U.S. Patent No. 6,111,619, issued to He et al. (hereafter "He") further in view of publication number 2002/0101547, issued to Lee et al. (hereafter "Lee"); claims 3-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ono in view of Kaneko, Yamamoto, He and Lee, and further in view of U.S. Patent No. 6,239,854, issued to Hirakata et al. (hereafter "Hirakata"); and claims 19-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ono, in view of U.S. Patent No. 6,146,796, issued to Kim further in view of U.S. Patent No. 4,630,355, issued to Johnson further in view of He and Lee.

Applicants traverse the rejections because none of the applied references, analyzed alone or in any combination, teaches or suggests the combined features recited in the claims of the present application. In particular, the Office Action concedes that Ono, the primary reference applied against the claims, fails to disclose all the limitations recited in the claims of the present application. To compensate for the deficiencies of Ono, the Office Action relies upon a multitude of references that allegedly teach the missing features. Based upon the teachings of the applied references, the Office Action alleges it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ono to obtain the combined features recited in the claims of the present application. After carefully review of all the applied references, Applicants respectfully disagree and submit "obviousness cannot be established by combining references without also providing evidence of the motivating force which would impel one

skilled in the art to do what the patent applicant has done” (*Ex parte Levengood*, 28 USPQ2d 1300, 1302 (Bd. Pat. App. & Inter. 1993)).

In accordance with MPEP 706.02(j), “after indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office Action: (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate”. Further, “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply” (see, MPEP 706.02(j)). In this Office Action, the Examiner has failed to provide any indication of the “relevant teachings” of the applied prior art and how the elements of the claims are disclosed in the prior art. Applicants note “the Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the application is under no obligation to submit evidence of nonobviousness” (See, MPEP 2142). Because the Examiner has failed to meet this initial burden, Applicants a *prima facie* case of obviousness has not been provided and respectfully request any next office action be non-final.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If the Examiner deems that a telephone conversation would further the prosecution of this application, the Examiner is invited to call the undersigned at (202) 496-7500.

Application No.: 10/020,894
Amendment dated March 22, 2004
Reply to Office Action dated December 22, 2003

Docket No.: 8733.556.00-US

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: March 22, 2004

Respectfully submitted,

By Valerie Hayes
Valerie Hayes

Registration No.: 53,005
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorney for Applicant